IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

MFA.No. 351 of 1999(D)

OPMV.76/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD
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APPELLANT - PETITIONER:

RATHNAKUMARI, AGED 23 YEARS,
D/O. KRISHNAN, EKKODE HOUSE,
CHITHAL POST, KUZHALMANNAM
VILLAGE, ALATHUR TALUK.

BY ADV. SRI.O.P.NANDAKUMAR
SRI.V.A.AJAYAKUMAR

RESPONDENTS - RESPONDENTS:
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1. **K.S. NADARAJAN, AGED 32 YEARS,**
S/O. SESHAN K.N. CHITHRA COLONY
PEELAMEDU, COIMBATORE,
TAMIL NADU. (DELTED)

2. **M/S. TRIDANT CORPORATION, 468,**
SASTHRI ROAD, GANAPATHY,
COIMBATORE, TAMIL NADU.

3. **UNITED INDIA INSURANCE COMPANY**
LIMITED, BRANCH OFFICE, SOONITH
BUILDING, SECOND FLOOR, D.B. ROAD,
R.S. PURAM, COIMBATORE.

THE FIRST RESPONDENT K.S. NADARAJAN,
AGED 32 YEARS, S/O. SESHAN K.N.,
CHITHRA COLONY, PEELAMEDU, COIMBATORE

TAMIL NADU, IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE PETITIONER AS PER ORDER DATED 22.3.2002 IN C.M.P. NO.1753/2002.

BY ADV. SRI.SIBY MATHEW
SRI.PHILIP J.VETTICKATTU

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 351 OF 1999

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Dated this the 6th day of July, 2007

J U D G M E N T

Petitioner in O.P(MV) No.76 of 1994 on the file of the Motor Accidents Claims Tribunal, Palakkad is the appellant. Petitioner met with a road traffic accident involving a Maruti Car bearing Reg. No.TN-37/D-8833 at about 1.10 p.m. on 5.11.1993. Petitioner filed O.P. claiming Rs.92,000/- as compensation impleading the owner, driver and Insurer of the vehicle. Tribunal found that the accident occurred due to the negligence of the driver. Tribunal awarded a sum of Rs.33,400/- as compensation. Complaining that the compensation awarded is highly inadequate, petitioner has filed this appeal.

2. The findings regarding negligence of the driver as well as the liability of the Insurer have already become final and conclusive. So the only point arising for consideration is whether the petitioner is entitled to get any amount as additional compensation.

3. Petitioner sustained fracture over the scalp with

surroundings haematoma as well as fleshy injuries. She produced a series of medical bills for Rs.16,091/-. Tribunal though took a view that those bills are not proper, awarded a sum of Rs.7,000/- under that count. I do not find any reason to reject those medical bills. Tribunal ought to have awarded the entire amount of Rs.16,091/- claimed. Petitioner produced Exhibit A11 certificate which would show that she require an operation in future for removing the implant and for that Rs.10,000/- is required. Tribunal took a view that for such an operation only Rs.3,000/- will be necessary. Tribunal has not stated any reason for taking such a view. Petitioner produced Exhibit A10 disability certificate to show that she is having permanent disability. According to the petitioner she is a tailor by profession and she was aged only 19 at the time of the accident. Disability certificate shows that she was having a disability of the right lower limb. Tribunal failed to note that a tailor who operates the sewing machine with the leg will find it difficult to operate the same with such a leg. So I am of the view that the Tribunal ought to have accepted the disability certificate and awarded compensation under that

head. Hence the petitioner is entitled to the following compensation under the head of disability.

"Rs.1500x9x12x15
---------- = Rs.24,300"
100

Tribunal had already awarded Rs.5,000/- as compensation for disability. Deducting that amount, the petitioner is entitled to get Rs,19.300/- under the head of disability. So the petitioner is entitled to get an additional compensation of Rs.35,491/-, rounded to 35,500/-.

In the result, the appeal is allowed in part. An award is passed in favour of the appellant allowing her to recover an additional compensation of Rs.35,500/- with 6% interest from the date of petition till date of realisation. The Insurer is directed to deposit that amount also. On deposit, the appellant can withdraw the whole amount.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO.351 OF 1999

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J U D G M E N T

6TH JULY, 2007